

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE
MADE IN CONNECTION WITH A VARIANCE GRANT UNDER
THE CITY OF WESTFIELD, INDIANA UNIFIED DEVELOPMENT ORDINANCE**

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in the City of Westfield, Hamilton County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

LEGAL DESCRIPTION: (See attached description.)

See EXHIBIT "A" ATTACHED HERETO
(the "Subject Property")

STATEMENT OF COMMITMENTS:

1. The Petitioner shall provide supplemental landscaping and mounding along the perimeters of the Subject Property as shown on the site plan attached hereto as Exhibit "C". Existing healthy and non-invasive landscaping on the north, south and east perimeters of the Subject Property shall be preserved; provided, however, diseased, dead or invasive trees, shrubs and plants may be removed from time to time, so long as such removed landscaping is replaced within a reasonable time in order to provide the buffer contemplated by this commitment. Additionally, if the existing fencing along the north or south adjoining property lines is removed (for any reason) and not replaced, Petitioner shall install an opaque fence six (6) to eight (8) feet in height along the Subject Property's property lines as a replacement for such removed fence. Chain link fencing with slats shall not be permitted. Such landscaping, fencing and mounding shall be maintained in good condition, ordinary wear and tear excepted. A certificate of compliance for the landscaping or fencing, as the case may be, shall be obtained following a passed inspection of the installed landscaping or fencing.
2. The Petitioner's landscaping company shall be operated in substantial compliance with the Plan of Operation attached hereto as Exhibit "B".
3. The subject property will be developed in substantial accordance with the site plan attached hereto as Exhibit "C".
4. Any new site improvement or structure on shall follow the development and design rules in the City of Westfield Unified Development Ordinance ("UDO") applicable to Industrial Uses/Districts.
5. The Operation shall meet all City of Westfield performance standards related to lighting, sound, noise and water runoff, as set forth in Sections 6.9, 6.15B, 6.15C.4., 6.15C.8, and 6.15C.9 of the UDO.
6. The external street frontage landscaping requirements required under the UDO shall apply along the Ditch Road frontage of the Subject Property, and shall be installed within three (3) months of the approval of the variance, or as soon as weather permits if the scheduled deadline would be in November through March. A certificate of compliance shall be obtained following a passed inspection of the installed landscaping.
7. Petitioner/Owner shall dedicate so much right of way along the subject property's Ditch Road frontage so as to provide for a Thirty-Five foot (35') half right of way, measured from the centerline. Such dedication shall be made within three (3) months of approval of the variance.
8. Petitioner/Owner shall install, at its expense, an eight foot (8') wide asphalt pedestrian pathway at the back of the dedicated right of way, within three (3) months following approval of the variance, or as soon as weather permits, if the scheduled installation deadline would be in November through March.
9. Hours of operation, including use of company equipment, delivery vehicles and trash pickup, shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday; provided, however, the office may remain open until 10:00 p.m., Monday through Thursday, and further provided, the business may operate on a limited basis outside of such hours during snow/ice events for the purpose of moving snow removal equipment from the Subject Property to clients locations.

10. All mulch shall be turned regularly to mitigate spoilage, and there shall not be in excess of a two (2) week supply on site at any given time. Currently, a two (2) week supply is approximately 100 cubic yards.
11. All bulk outside storage of mulch, soil, rock and paver material shall be kept in bins which shall be covered by hoop houses.
12. All repairs to equipment (except an emergency) shall take place in the shop building shown on the Site Plan.
13. There shall be a maximum of three (3) above ground fuel tanks located on the Subject Property. Such tanks shall be limited to fuel for Petitioner's company vehicles, shall contain no more than 500 gallons each, shall each feature a double wall containment system, and shall be located and maintained in conformity with all applicable building, health and safety codes and be subject to the approval of the City of Westfield Fire Marshall.
14. Petitioner shall provide the Centennial Homeowners Association Board evidence that the Subject Property contained no recognized environmental conditions at the time it acquired the Subject Property, and shall operate and maintain the Subject Property in compliance with all applicable environmental laws.
15. Any retail sales on the Subject Property shall be limited as described in the Plan of Operation.
16. Vehicles which may be kept on the Subject Property shall be limited as described in the Plan of Operation.

These COMMITMENTS shall run with the land, be binding on the Owner of the above-described real estate, subsequent owners of the above-described real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the City of Westfield made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the approval of Petition #1506-VU-06 pursuant to the City of Westfield Unified Development Ordinance, and shall continue in effect until modified or terminated by the City of Westfield Board of Zoning Appeals.

These COMMITMENTS may be enforced by

1. The City of Westfield Board of Zoning Appeals; and

The undersigned hereby authorizes the City of Westfield to record these Commitments in the Office of the Recorder of Hamilton County, Indiana, upon final approval of petition # 1506-VU-06.

IN WITNESS WHEREOF, owner has executed this instrument this _____ day of _____, 2015

Printed: _____
Jeffrey Kelich

Printed _____
Renee Kelich

(Acknowledgment)

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared Jeffrey Kelich, Owner(s) of the real estate described above, who acknowledged the execution of the foregoing instrument for and on behalf of said trust.

Witness my hand and Notarial Seal this _____ day of _____, 2015

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared Renee Kelich, Owner(s) of the real estate described above, who acknowledged the execution of the foregoing instrument for and on behalf of said trust.

Witness my hand and Notarial Seal this _____ day of _____, 2015

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

This instrument was prepared by Joseph D. Calderon, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700 Indianapolis, Indiana, 46204

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Joseph D. Calderon, Esq.

EXHIBIT A

EXHIBIT B

EXHIBIT C